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Paper No. 6

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**COPY MAILED**

**SEP 08 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Cowley, Mason, :  
Eltomi and Dechant :  
Application No. 09/997,694 :  
Filed: November 30, 2001 : ON PETITION  
Title of Invention: :  
METHODS OF USING CHLORINE :  
DIOXIDE AS A FUMIGANT :

This is a decision on the Petition under 37 CFR § 1.182 to permit joint prosecution, filed July 19, 2004.

Background

The oath or declaration for the above-identified application was filed on May 20, 2002, wherein inventors Cowley, Mason, Eltomi and Dechant appointed as counsel Bowditch & Dewey, LLP.

Subsequent to the filing of the oath, two assignments have been recorded with this Office. In the first, inventor Cowley executed an Assignment to Sterling Pulp Chemicals, Ltd. ("Sterling"). Sterling continued with Bowditch & Dewey as correspondent for the application. The assignment was recorded on October 30, 2002. In the second, inventor Eltomi executed an Assignment to Ashland Inc. ("Ashland"). Ashland appointed itself as correspondent. The Assignment to Ashland was recorded on February 19, 2003.

The instant petition

The instant petition is a request to enter as counsel of record for Assignee Sabre Oxidation Technologies, Inc. ("Sabre"), Mark E. Waddell, Esq., and Kathleen Gersh, Esq., at Chadbourne & Park LLP. An Assignment is included with the petition, executed by inventor Mason, assigning his interest in the application to Sabre. An Assignment executed by inventor Dechant is said to be forthcoming. The petition further avers that inventors Mason and Denchant previously executed assignments to Sabre; however, the assignments listed the wrong application serial number. A correct[ed] copy of the Assignment is "being submitted for recordation under separate cover". Petition at p.2.

The petition further provides that Sterling's successor in interest, ERCO Worldwide ("ERCO") it relinquishing its part interest in this application. "A formal assignment of

Sterling's interest in this application is being prepared and will be submitted in due course". Id.

Sabre has filed a statement under 37 CFR 1.73(b), asserting that its interest in this application is 50%, and filed a Revocation of Prior Power of Attorney and Appointment of New Attorneys of Record.

### Analysis

Office records indicate that Sabre's interest in this application is 25%. The assignment to Sabre has been executed by inventor Mason only. Office records further indicate that inventor Cowley executed an Assignment on October 3, 2002, assigning his interest in the application to Sterling, and that inventor Eltomi executed an assignment on February 7, 2003, assigning his interest in the application to Ashland. A Power of Attorney has not been filed by Sterling or Ashland. Finally, the Office has no record that inventor Dechant has executed an assignment in this application. In view of the above, Sabre, Ashland, Sterling and inventor Dechant each own a 25% interest in this application.

Accordingly, the petition is granted in part. The petition is granted to the extent that Mark E. Waddell, Esq., and Kathleen Gersh, Esq., at Chadbourne & Park LLP have been entered as counsel of record for Assignee Sabre Oxidation Technologies, Inc. ("Sabre"), but dismissed to the extent that Sabre's interest in the application is currently 25%, and not 50%.

In order to ensure that all interests are properly and effectively represented, **all further correspondence to the Patent and Trademark Office (Office) must be signed by Richard B. Hoffman et al., and the Law Firm of Bowditch & Dewey, LLP, as counsel to prosecute this application on behalf of inventors Cowley, Eltomi and Dechant, and likewise signed by Mark E. Waddell or Kathleen Gersh, and the Law Firm of Chadbourne & Parke, LLP as counsel to prosecute this application on behalf of inventor Mason. Each attorney or agent signing subsequent papers must indicate whom he or she represents.**

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by this Office.

The Office will continue to conduct correspondence with the attorneys first named in the application; the Law Firm of Bowditch & Dewey, LLP, at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to this Office. See, Manual of Patent Examining Procedure ("MPEP") 402.10.

It is noted that, notwithstanding this Decision, the inventors may still jointly appoint or revoke power of attorney.

This application is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

A handwritten signature in dark ink, appearing to read "Derek L. Woods", is positioned above the printed name.

Derek L. Woods  
Petitions Attorney  
Office of Petitions